

SENATE BILL 1547

By Bailey

AN ACT relative to the levy of a privilege tax on the occupancy of any room, lodgings, or accommodations furnished to transients by any hotel, inn, tourist court, tourist cabin, motel, or any place in which rooms, lodgings, or accommodations are furnished for transients for a consideration in Jackson County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. For the purposes of this act:

(a) "Clerk" means the county clerk of Jackson County, Tennessee;

(b) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property, and services of any kind or nature without any deduction therefrom whatsoever. This definition does not imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(c) "County" means Jackson County, Tennessee;

(d) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, campground, tourist camp, tourist court, tourist cabin, motel, or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration;

(e) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in any hotel;

(f) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise, and includes governmental entities;

(g) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental unit other than the United States or any of its agencies, or any other group or combination acting as a unit; and

(h) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of Jackson County may levy a privilege tax upon the privilege of occupancy in any hotel of each transient, in the amount of five percent (5%) of the rate charged by the operator. The tax imposed is a privilege tax upon the transient occupying such room or other accommodation and is to be collected and distributed as provided in this act. The rate of the tax may be modified by the county legislative body; provided, that the rate must not exceed five percent (5%). Such tax is in addition to all other taxes levied or authorized to be levied, whether in the form of excise, license, or privilege taxes, and is in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 3. The proceeds received by the county from the tax are allocated to and placed in the county general fund, and designated and used for such purposes as specified by resolution of the county legislative body.

SECTION 4.

(a) Each operator shall:

(1) Add the occupancy tax to each invoice prepared by the operator for the occupancy of the hotel, which must be given directly or transmitted to the transient;

(2) Collect such tax from the transient; and

(3) Remit such tax to the clerk.

(b) When a person has maintained occupancy for thirty (30) continuous days, the operator shall provide a refund or credit to the person for the tax previously collected

from or charged to the person, and the clerk shall credit the operator for the amount of such tax if previously paid or reported to the county.

SECTION 5.

(a) Each operator that leases, rents, or charges for rooms or spaces in hotels within the county shall remit the tax levied pursuant to this act to the clerk, or such other officer, as may by resolution, be charged with the duty of collection of the tax, not later than the twentieth day of each month for the preceding month. The operator shall collect the tax from the transient at the time of the presentation of the invoice for the occupancy as may be the custom of the operator.

(b) For the purpose of compensating the operator in accounting for remitting the tax levied by this act, the operator is entitled to retain two percent (2%) from the amount of the tax due by including such a deduction in the operator's report and paying the remaining amount due by the operator, so long as the amount due was not delinquent at the time of payment.

SECTION 6. The clerk, or other authorized collector of the tax, is responsible for the collection of the tax and shall place the proceeds of such tax in accounts for the purposes stated in this act. Each operator shall file a monthly tax return under oath with the clerk with such number of copies thereof as the clerk may reasonably require for the collection of such tax. The report of the operator must include such facts and information as may be deemed reasonable for the verification of the tax due. The clerk shall develop the form of the report, which must be approved by the county legislative body prior to use. The clerk shall audit each operator in the county at least once per year and shall report on the audits on a quarterly basis to the county legislative body. The county legislative body may adopt resolutions to provide reasonable rules and regulations for the implementation of this act, including the form for such reports.

SECTION 7. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 8.

(a) Taxes collected by an operator that are not remitted to the county clerk on or before the due dates are delinquent. An operator is liable for interest on delinquent taxes from the due date at the rate of twelve percent (12%) per annum and, in addition, for a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty become a part of the tax herein required to be remitted.

(b) Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is an offense and constitutes a misdemeanor punishable upon conviction of a fine not in excess of fifty dollars (\$50.00).

(c) This section does not prevent the clerk or other authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this act.

SECTION 9. Each operator shall keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as the operator may have been liable for the collection of and payment to the county. The clerk may inspect, and the operator shall provide access to, the operator's occupancy tax records at reasonable times at the request of the clerk.

SECTION 10. The clerk, in administering and enforcing this act, may exercise the powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, Title 67, or otherwise provided by law for the county clerks. For the clerk's services in administering and enforcing this act, the clerk may retain, as a commission, five percent (5%) of the taxes collected. Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67, it being the intent of this act that the provisions of law that apply to the recovery of state taxes illegally assessed and collected also apply to the tax levied under the authority of this act. The clerk has the powers and duties provided in Tennessee Code Annotated, § 67-1-707, for the county clerks. With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the clerk under the authority of this act must be refunded by the county clerk. Notice of any tax paid under

protest must be given to the county clerk, and the resolution authorizing levy of the tax must designate a county officer against whom suit may be brought for recovery.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Jackson County. Its approval or no approval shall be proclaimed by the presiding officer of the county legislative body and certified by the presiding officer of the county legislative body to the secretary of state.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall become effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on the first day of the second month following approval as provided in Section 12, the public welfare requiring it.